REMARKS

The following remarks are in response to the Office Action mailed August 9, 2007. Additionally, a Request for Continued Examination is respectfully submitted with this response to continue prosecution of the present application.

Claims 16 and 19-30 are currently pending in the present application, of which claims 16 and 27 are independent claims. Claims 1-15 and 31-36 have been cancelled in an effort to advance prosecution.

Independent claims 16 and 27 are hereby amended to include the elements of a unique tracking code that is unique as to a specific source and data tracking specific to the drug and its source from preparation of the source (i.e., filling of source in pharmacy) to its final disposal (i.e., return of source, and any excess drug, to pharmacy, waste station, drug testing lab, etc.). Support for these amendments can be found throughout the specification, thus no new matter is added. Applicant respectfully requests that these amendments be considered and entered by Examiner.

In the Office Action, Examiner rejects claims 1-16 and 19-36 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,651,775 (Walker et al.) in view of U.S. Patent No. 4,857,716 (Gombrich et al.).

Examiner asserts that, as to claim 16, for example, Walker et al. discloses the present invention except for teaching "storing data in association with said tracking code on a storage device whereby said data may be altered while still being associated with the same unique tracking code, and retrieving said data from said storage device using said tracking code." Office Action 8/9/07 at 3. Examiner further asserts that Gombrich et al. discloses "storing said data in association with said tracking code on a storage device, whereby

said data may be altered while still being associated with the same unique tracking code, and retrieving said data from said storage device using said tracking code." Office Action 8/9/07 at 3.

Walker et al. employ a scanning module which uses bar code techniques to read a label affixed to a cradle. The label contains information including a code identifying the drug contained in the syringe, size of the syringe, syringe type, preparer of the drug, etc. See Walker et al., col. 2, ll. 7-19. In other words, in Walker et al., data related to the source is contained in the bar-coded label, whereas, in the claimed invention, any such data is stored on a storage device and capable of being retrieved using the tracking code affixed to the device.

Gombrich et al. disclose a patient identification system which includes a bar code scanning device, an LCD screen and a keyboard. The bar code scanner can read a patient's bar code identification as well as bar codes of various items throughout the hospital. The identification system can then relate these specific items throughout the hospital with the patient by the user inputting the proper information on the keyboard. The identification system can then be used to check that a certain item properly corresponds to a specific patient. See Gombrich et al., Abstract.

Contrary to the Examiner's assertions, it is respectfully submitted that Walker et al. and Gombrich et al. do not disclose each and every element of the claims, as required by 35 U.S.C. § 103(a).

First, Gombrich et al. do not disclose, as exemplified by claim 16, the tracking of data which can be stored to a remote storage device, wherein the data tracks the drug, and the source, from preparation of the source to disposal of the source. As stated above, Gombrich et al. merely correlates a

patient to an item in the hospital, for example, a syringe containing a drug. When the user scans the bar code on the patient, and on the syringe, the two can be correlated within the system such that the syringe can be assigned to the patient. See Gombrich, et al., Abstract; col. 8, ll. 66 to col. 9, ll. 7.

In the present claims, "a patient" is not necessarily a required element. The data stored on the storage device is specific to the unique tracking code of the source of the drug only. The data stored is, essentially, an audit-trail of the source, from its preparation to its disposal. The data tracks the history of the specific source as to administration, disposal, and any remaining drug. However, the data as claimed is not related to a specific patient (i.e., the source is not "assigned" to a patient, as in Gombrich et al.). This technique of tracking the history of a drug is useful for FDA recalls as well as complying with Federal law as to regulation of prescription narcotics. Each specific source of a drug can be continuously tracked such that there is a record of who handled each source, where it is, and what happened to any excess drug remaining in the syringe.

Gombrich et al. cannot accomplish this because a syringe, in Gombrich et al., only has a bar code label which assigns the syringe to a patient. While a syringe in Gombrich et al. may be able to be assigned to a patient, and may be able to track what users handle the syringe, it cannot record administration amounts, or the presence of any drug remaining in the syringe. Moreover, the device of Gombrich et al. makes it difficult to research the history of a specific syringe in the event of an FDA recall or the like. In Gombrich et al., it appears as though a hospital would have to dig into the records of each individual patient to determine which patients are on a specific drug. In the present invention, however, a hospital would only have to search the database for a specific drug, and

the list of unique tracking codes for that specific drug would be readily available. Since the present invention, as claimed, uses tracking codes specific to the source, and thus, specific as to the drug, the individual patient tracking numbers are not required. A source, and the drug within the source, can be tracked specifically, without the patient ever being involved.

Second, Gombrich et al. does not disclose a unique tracking code for each item that is assigned to a particular patient. Specifically, FIG. 4 of Gombrich et al. discloses a sheet of labels 53 which are kept in the patient's file. The labels can then be peeled off the sheet and "applied to various items so as to relate those items to the patient." Gombrich et al., col. 8, ll. 39-49. Thus, the various items assigned to a patient will have a bar code, while unique as to the patient, is not unique as to other items throughout the hospital.

In the present invention, however, each source has a unique tracking code, which no other item in the hospital has. The tracking code is specific to the single source, for example, a specific syringe. Each syringe, even those containing the same drug, throughout the hospital, has a tracking code that is unique unto itself. See Application, for example, ¶[0036]. This allows each specific source, especially those containing the same drug or in the case of multiple sources being administered to the same patient, to be tracked apart from every other source.

In view of the above, each of the presently pending claims in this application is believed to be in condition for immediate allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at

(908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: October 30, 2007

Respectfully submitted,

By _____

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